

**Executive Summary – Enforcement Matter – Case No. 49225**

**City of Fritch**

**RN101199099**

**Docket No. 2014-1227-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Fritch Municipal Water Supply, located at the intersection of Pioneer Street and Hackberry Street, Fritch, Hutchinson County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** February 20, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$3,220

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$3,220

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and April 2014

**Executive Summary – Enforcement Matter – Case No. 49225**

**City of Fritch**

**RN101199099**

**Docket No. 2014-1227-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 28, 2013, August 11, 2014, and September 29, 2014 through October 10, 2014

**Date(s) of NOE(s):** August 12, 2014

***Violation Information***

1. Failed to maintain pumps, motors, valves and other mechanical devices in good working condition [30 TEX. ADMIN. CODE § 290.46(m)(6)].
2. Failed to design the system to afford effective circulation of water with a minimum of dead ends [30 TEX. ADMIN. CODE § 290.44(d)(6)].
3. Failed to operate the Facility under the direct supervision of at least two water works operators who hold a Class "C" or higher license [30 TEX. ADMIN. CODE § 290.46(e)(4)(C) and TEX. HEALTH & SAFETY CODE § 341.033(a)].
4. Failed to collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample and failed to provide public notification and submit a copy of the notification to the Executive Director ("ED") regarding the failure to collect raw groundwater source *Escherichia coli* samples [30 TEX. ADMIN. CODE §§ 290.109(c)(4)B) and 290.122(c)(2)(A) and (f)].
5. Failed to provide public notification and submit a copy of the notification to the ED regarding the failure to comply with the maximum contaminant level for total coliform [30 TEX. ADMIN. CODE § 290.122(b)(2)(A) and (f)].
6. Failed to mail consumer notification of lead tap water monitoring results to persons served at the locations that were sampled and failed to submit to the TCEQ a copy of the consumer notification and certification that the consumer notification has been distributed to the persons served at the locations in a manner consistent with TCEQ requirements [30 TEX. ADMIN. CODE § 290.117(i)(6) and (j)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days:

i. Begin maintaining pumps, motors, valves and other mechanical devices in good working condition, including but not limited to maintaining Service Pump No. 3 at Pump Station No. 1, repairing Service Pump No. 2 so that it is able to operate at full capacity and serve as a back up for Service Pump No. 1, repairing the leaks from Service Pump Nos. 2 and 3 and repairing the valve that controls the flow of water into the 0.045 million gallon ground storage tank;

ii. Commence operating the Facility under the direct supervision of two water works operators who hold a Class "C" or higher license;

iii. Begin complying with applicable coliform monitoring requirements by collecting one raw groundwater source *Escherichia coli* sample from each groundwater source in use at the time the distribution coliform-positive sample was collected and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliant monitoring and reporting;

iv. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility with a copy to the ED, including but not limited to providing public notification regarding the failure to collect raw groundwater source *Escherichia coli* samples and the failure to comply with the maximum contaminant level for total coliform; and

v. Mail one copy of the consumer notification of lead tap water monitoring results to persons served at the locations that were sampled for the most recent monitoring period in which lead samples were collected.

b. Within 45 days:

i. Submit written certification to demonstrate compliance with Ordering Provisions a.i., a.ii., a.iv. and a.v.; and

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**City of Fritch**  
**RN101199099**  
**Docket No. 2014-1227-PWS-E**

ii. Submit to the Commission a copy of the consumer notification of lead tap water monitoring results provided to the persons served at the locations that were sampled and the certification that the consumer notification has been distributed to said persons in a manner consistent with TCEQ requirements.

c. Within 60 days:

i. Submit written certification to demonstrate compliance with Ordering Provision b.ii.; and

ii. Provide effective circulation and pressure maintenance within the distribution system.

d. Within 75 days, submit written certification to demonstrate compliance with Ordering Provision c.ii.

e. Within 225 days, submit written certification to demonstrate compliance with Ordering Provision a.iii.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Katy Montgomery, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4016; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable W. Kelly Henderson, Mayor, City of Fritch, P.O. Box 758, Fritch, Texas 79036

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	13-Oct-2014	<b>Screening</b>	22-Oct-2014	<b>EPA Due</b>	31-Dec-2014
	<b>PCW</b>	8-Dec-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Fritch
<b>Reg. Ent. Ref. No.</b>	RN101199099
<b>Facility/Site Region</b>	1-Amarillo
<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	49225	<b>No. of Violations</b>	1
<b>Docket No.</b>	2014-1227-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Katy Montgomery
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$500
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	40.0%	<b>Enhancement</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$200
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Notes: Enhancement for four NOV's with the same/similar violations and one agreed order with a denial of liability.

<b>Culpability</b>	No	0.0%	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$25
Estimated Cost of Compliance	\$25

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$700
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$700
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$700
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<b>DEFERRAL</b>	0.0%	<b>Reduction</b>	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$700
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Screening Date 22-Oct-2014

Docket No. 2014-1227-PWS-E

PCW

Respondent City of Fritch

Policy Revision 2 (September 2002)

Case ID No. 49225

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101199099

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for four NOVs with the same/similar violations and one agreed order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 40%

Screening Date 22-Oct-2014

Docket No. 2014-1227-PWS-E

PCW

Respondent City of Fritch

Policy Revision 2 (September 2002)

Case ID No. 49225

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101199099

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.109(c)(4)(B)

Violation Description

Failed to collect raw groundwater source Escherichia coli samples from one of the four active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample for the month of September 2010.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to collect raw groundwater source samples could result in customers of the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$500

\$500

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

One monthly event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$700

This violation Final Assessed Penalty (adjusted for limits) \$700

# Economic Benefit Worksheet

**Respondent** City of Fritch  
**Case ID No.** 49225  
**Reg. Ent. Reference No.** RN101199099  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	22-Sep-2010	23-Sep-2010	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect raw groundwater source samples from each active source (\$25 per sample x one missed sample), calculated for the 24-hour period after the coliform-positive sample result.

Approx. Cost of Compliance \$25

**TOTAL** \$25



<b>TCEQ</b>	<b>DATES</b>	Assigned 18-Aug-2014	PCW 22-Oct-2014	Screening 21-Aug-2014	EPA Due
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<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent City of Fritch	
Reg. Ent. Ref. No. RN101199099	
Facility/Site Region 1-Amarillo	Major/Minor Source Major

<b>CASE INFORMATION</b>	
Enf./Case ID No. 49225	No. of Violations 3
Docket No. 2014-1227-PWS-E	Order Type Findings
Media Program(s) Public Water Supply	Government/Non-Profit Yes
Multi-Media	Enf. Coordinator Katy Montgomery
	EC's Team Enforcement Team 2
Admin. Penalty \$ Limit Minimum \$50 Maximum \$1,000	

<b>Penalty Calculation Section</b>	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> \$900
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
<b>Compliance History</b>	<b>40.0%</b> Enhancement <b>Subtotals 2, 3, &amp; 7</b> \$360
Notes	Enhancement for four NOV's with the same/similar violations and one agreed order with a denial of liability.
<b>Culpability</b>	<b>0.0%</b> Enhancement <b>Subtotal 4</b> \$0
Notes	The Respondent does not meet the culpability criteria.
<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b> \$0
<b>Economic Benefit</b>	<b>0.0%</b> Enhancement* <b>Subtotal 6</b> \$0
Total EB Amounts \$54,911	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance \$49,600	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> \$1,260
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> <b>Adjustment</b> \$0
Reduces or enhances the Final Subtotal by the indicated percentage.	
Notes	
	<b>Final Penalty Amount</b> \$1,260
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> \$1,260
<b>DEFERRAL</b>	<b>0.0%</b> Reduction <b>Adjustment</b> \$0
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)	
Notes	No deferral is recommended for Findings Orders.
<b>PAYABLE PENALTY</b>	<b>\$1,260</b>

Screening Date 21-Aug-2014

Docket No. 2014-1227-PWS-E

PCW

Respondent City of Fritch

Policy Revision 4 (April 2014)

Case ID No. 49225

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101199099

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement for four NOVs with the same/similar violations and one agreed order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 40%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 40%

Screening Date 21-Aug-2014

Docket No. 2014-1227-PWS-E

PCW

Respondent City of Fritch

Policy Revision 4 (April 2014)

Case ID No. 49225

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101199099

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.46(m)(6)

Violation Description

Failed to maintain pumps, motors, valves and other mechanical devices in good working condition. Specifically, it was documented that Service Pump No. 3 at Pump Station No. 1 has not been maintained in working condition, Service Pump No. 2 is maintained as a back up for Service Pump No. 1, but it is not able to operate at full capacity, Service Pump Nos. 2 and 3 are leaking even when not running and the valve that controls the flow of water into the 0.045 million gallon ("MG") ground storage tank is not functioning.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to properly maintain the Facility's equipment could expose customers of the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 3

10 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$450

Three quarterly events are recommended, one for each device, calculated from the record review date, August 11, 2014, to the screening date, August 21, 2014.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$450

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$386

Violation Final Penalty Total \$630

This violation Final Assessed Penalty (adjusted for limits) \$630

# Economic Benefit Worksheet

Respondent City of Fritch  
Case ID No. 49225  
Reg. Ent. Reference No. RN101199099  
Media Public Water Supply  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$3,000	28-May-2013	31-Mar-2015	1.84	\$18	\$368	\$386
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

### Notes for DELAYED costs

The delayed cost includes the estimated amount to repair Service Pump Nos. 2 and 3 at Pump Station No. 1 and the valve that controls the flow of water into the 0.045 MG ground storage tank, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$386

Screening Date 21-Aug-2014

Docket No. 2014-1227-PWS-E

PCW

Respondent City of Fritch

Policy Revision 4 (April 2014)

Case ID No. 49225

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101199099

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.44(d)(6)

## Violation Description

Failed to design the system to afford effective circulation of water with a minimum of dead ends. Specifically, effective circulation and pressure maintenance within the distribution system has not been possible due to having only one interconnection between the former HI-Texas portion of the distribution system and the rest of the Fritch municipal water supply.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to provide effective circulation of water within the distribution system could result in customers of the Facility being exposed to contaminants which would exceed levels protective of human health.

Adjustment \$700

\$300

## Violation Events

Number of Violation Events 1

10 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$300

One monthly event is recommended, calculated from the record review date, August 11, 2014, to the screening date, August 21, 2014.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$673

Violation Final Penalty Total \$420

This violation Final Assessed Penalty (adjusted for limits) \$420

# Economic Benefit Worksheet

Respondent City of Fritch  
Case ID No. 49225  
Reg. Ent. Reference No. RN101199099  
Media Public Water Supply  
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$5,000	28-May-2013	30-Apr-2015	1.92	\$32	\$641	\$673
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide additional interconnects between the former Hill Texas portion of the distribution system and the rest of the Fritch municipal water supply which would allow for effective circulation and pressure maintenance, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$673

Screening Date 21-Aug-2014

Docket No. 2014-1227-PWS-E

PCW

Respondent City of Fritch

Policy Revision 4 (April 2014)

Case ID No. 49225

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101199099

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.46(e)(4)(C) and Tex. Health &amp; Safety Code § 341.033(a)

## Violation Description

Failed to operate the Facility under the direct supervision of at least two water works operators who hold a Class "C" or higher license. Specifically, the Respondent employs one water works operator with a Class "C" license.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to perform process control duties under the direct supervision of two appropriately licensed water works operators may expose the customers of the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 1

10 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$150

One quarterly event is recommended, calculated from the record review date, August 11, 2014, to the screening date, August 21, 2014.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$53,852

Violation Final Penalty Total \$210

This violation Final Assessed Penalty (adjusted for limits) \$210

# Economic Benefit Worksheet

**Respondent** City of Fritch  
**Case ID No.** 49225  
**Reg. Ent. Reference No.** RN101199099  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel	\$41,600	28-May-2013	21-Aug-2014	1.23	\$2,564	\$51,288	\$53,852
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to hire an additional water works operator who holds a Class "C" or higher license (\$20/hour x 40 hours per week x 52 weeks), calculated from the date of the investigation initially documenting the violation to the screening date.

Approx. Cost of Compliance	\$41,600	<b>TOTAL</b>	\$53,852
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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	13-Oct-2014	<b>Screening</b>	22-Oct-2014	<b>EPA Due</b>	31-Dec-2014
	<b>PCW</b>	12-Dec-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Fritch	<b>Major/Minor Source</b>	Major
<b>Reg. Ent. Ref. No.</b>	RN101199099		
<b>Facility/Site Region</b>	1-Amarillo		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	49225	<b>No. of Violations</b>	3
<b>Docket No.</b>	2014-1227-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Katy Montgomery
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$900
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	40.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$360
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Notes: Enhancement for four NOV's with the same/similar violations and one agreed order with a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$91	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$85	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,260
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$1,260
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,260
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$1,260
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Screening Date 22-Oct-2014

Docket No. 2014-1227-PWS-E

PCW

Respondent City of Fritch

Policy Revision 4 (April 2014)

Case ID No. 49225

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101199099

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for four NOVs with the same/similar violations and one agreed order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 40%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 40%

Screening Date 22-Oct-2014

Docket No. 2014-1227-PWS-E

PCW

Respondent City of Fritch

Policy Revision 4 (April 2014)

Case ID No. 49225

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101199099

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(4)(B) and 290.122(c)(2)(A) and (f)

## Violation Description

Failed to collect raw groundwater source Escherichia coli samples from the eight active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample and failed to provide public notification and submit a copy of the notification to the Executive Director regarding the failure to collect raw groundwater source Escherichia coli samples. Specifically, the Respondent collected 12 of the required 32 raw groundwater source Escherichia coli samples for the four positive results during the month of May 2013, two of the required 16 raw groundwater source Escherichia coli samples for the eight positive results during the month of July 2013 and did not provide public notification regarding the failure to collect raw groundwater source Escherichia coli samples for the months of May and July 2013.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Failure to collect raw groundwater source samples and provide public notification could result in customers of the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$700

\$300

## Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$600

Two monthly events are recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$600

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$906

Violation Final Penalty Total \$840

This violation Final Assessed Penalty (adjusted for limits) \$840

# Economic Benefit Worksheet

**Respondent** City of Fritch  
**Case ID No.** 49225  
**Reg. Ent. Reference No.** RN101199099  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	29-Sep-2014	31-May-2015	0.67	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

### Notes for DELAYED costs

The delayed cost includes the estimated amount to develop and implement procedures and conduct employee training to ensure that all necessary public notifications are provided in a timely manner, calculated from the date of the record review to the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	1-Jun-2013	2-Jun-2013	0.00	\$0	\$500	\$500
ONE-TIME avoided costs [3]	\$350	30-Jul-2013	31-Jul-2013	0.00	\$0	\$350	\$350
Other (as needed)	\$50	2-Jun-2013	31-Oct-2013	1.33	\$3	\$50	\$53

### Notes for AVOIDED costs

The avoided costs include the estimated amount to collect raw groundwater source samples from each active source (\$25 per sample x 20 missed samples x one monitoring period and \$25 per sample x 14 missed samples x one monitoring period), calculated for the 24-hour periods after the coliform-positive sample results. The other avoided cost includes the estimated amount to provide public notification regarding the failure to collect raw groundwater source samples (\$25 per notification x 2 missed notifications), calculated for the periods in which notifications were required.

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$906

Screening Date 22-Oct-2014

Docket No. 2014-1227-PWS-E

PCW

Respondent City of Fritch

Policy Revision 4 (April 2014)

Case ID No. 49225

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101199099

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.122(b)(2)(A) and (f)

Violation Description Failed to provide public notification and submit a copy of the notification to the Executive Director regarding the failure to comply with the maximum contaminant level for total coliform during the month of July 2013.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One single event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$210

This violation Final Assessed Penalty (adjusted for limits) \$210

# Economic Benefit Worksheet

**Respondent** City of Fritch  
**Case ID No.** 49225  
**Reg. Ent. Reference No.** RN101199099  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost of compliance is captured in the Economic Benefit Worksheet for Violation No. 1 of this PCW.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	31-Jul-2013	30-Aug-2013	1.00	\$1	\$25	\$26
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide public notification regarding the failure to comply with the maximum contaminant level for total coliform (\$25 per notification), calculated for the period in which notification was required.

Approx. Cost of Compliance \$25

**TOTAL** \$26

Screening Date 22-Oct-2014

Docket No. 2014-1227-PWS-E

PCW

Respondent City of Fritch

Policy Revision 4 (April 2014)

Case ID No. 49225

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101199099

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.117(i)(6) and (j)

## Violation Description

Failed to mail consumer notification of lead tap water monitoring results to persons served at the locations that were sampled and failed to submit to the TCEQ a copy of the consumer notification and certification that the consumer notification has been distributed to the persons served at the locations in a manner consistent with TCEQ requirements for the 2013 monitoring period.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 1

91 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One single event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$65

Violation Final Penalty Total \$210

This violation Final Assessed Penalty (adjusted for limits) \$210

# Economic Benefit Worksheet

Respondent City of Fritch  
Case ID No. 49225  
Reg. Ent. Reference No. RN101199099  
Media Public Water Supply  
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$60	31-Dec-2013	22-Oct-2014	1.73	\$5	\$60	\$65
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and mail the consumer notification for the 2013 monitoring period to persons served at the locations that were sampled and to the TCEQ (( $\$0.50 \times 20$  sampled locations +  $\$50$ ) x one monitoring period), calculated from the date the consumer notification was due to the screening date.

Approx. Cost of Compliance

\$60

TOTAL

\$65





## TCEQ Compliance History Report

**PENDING** Compliance History Report for CN600630453, RN101199099, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN600630453, City of Fritch  
**Classification:** SATISFACTORY **Rating:** 4.50  
**Regulated Entity:** RN101199099, FRITCH MUNICIPAL WATER SUPPLY  
**Classification:** NOT APPLICABLE **Rating:** N/A  
**Complexity Points:** N/A  
**Repeat Violator:** N/A  
**CH Group:** 14 - Other  
**Location:** INTERSECTION OF PIONEER STREET AND HACKBERRY STREET, FRITCH, HUTCHINSON COUNTY, TEXAS  
**TCEQ Region:** REGION 01 - AMARILLO  
**ID Number(s):**  
**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 1170004  
**Compliance History Period:** September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014  
**Date Compliance History Report Prepared:** October 22, 2014  
**Agency Decision Requiring Compliance History:** Enforcement  
**Component Period Selected:** October 22, 2009 to October 22, 2014  
**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Katy Montgomery **Phone:** (210) 403-4016

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

#### **A. Final Orders, court judgments, and consent decrees:**

- 1 Effective Date: 05/11/2013 ADMINORDER 2012-1905-PWS-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.110(b)(2)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: The City of Fritch failed to maintain chlorine residual level at or above 0.2 mg/l.  
Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(C)  
5A THSC Chapter 341, SubChapter A 341.033(a)  
Description: The City of Fritch failed to assign a licensed PWS operator to conduct the required process control duties.

#### **B. Criminal convictions:**

N/A

#### **C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1      February 24, 2012      (987346)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1      Date:      11/07/2013      (1197970)      CN600630453  
 Self Report?    NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
                  30 TAC Chapter 290, SubChapter F 290.122(f)  
 Description:    MAY/2013 GWR Triggered Source Monitoring PN Posting and Reporting Violation -  
                  Failure to submit a signed certificate of delivery to the Executive Director  
                  certifying that public notice was issued pursuant to 30 Tex. Admin. Code  
                  §290.122 during the time period that public notice was required for failing to  
                  conduct triggered source monitoring for the month of 05/2013.
  
- 2      Date:      11/20/2013      (1197970)      CN600630453  
 Self Report?    NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
                  30 TAC Chapter 290, SubChapter F 290.122(f)  
 Description:    JUL/2013 TCR MCL PN Posting and Reporting Violation - Failure to submit a signed  
                  certificate of delivery to the Executive Director certifying that public notice was  
                  issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that  
                  public notice was required for a maximum contaminant level violation during the  
                  month of 07/2013.
  
- 3      Date:      01/09/2014      (1197970)      CN600630453  
 Self Report?    NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
                  30 TAC Chapter 290, SubChapter F 290.122(f)  
 Description:    JUL/2013 GWR Triggered Source Monitoring PN Posting and Reporting Violation -  
                  Failure to submit a signed certificate of delivery to the Executive Director  
                  certifying that public notice was issued pursuant to 30 Tex. Admin. Code  
                  §290.122 during the time period that public notice was required for failing to  
                  conduct triggered source monitoring for the month of 07/2013.
  
- 4      Date:      02/12/2014      (1145366)      CN600630453  
 Self Report?    NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 290, SubChapter D 290.46(n)(2)  
 Description:    The facility failed to provide an accurate and up to date map of the distribution  
                  system combining both the Fritch MWS and former Hi-Texas portions of the  
                  distribution system.  
 Self Report?    NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(i)  
 Description:    The facility failed to ensure that a cross-connection and backflow prevention  
                  program was conducted.  
 Self Report?    NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 290, SubChapter D 290.46(m)(1)(C)  
 Description:    The facility failed to ensure that all instruments and controls on the system  
                  storage tanks work properly. The facility failed to maintain the altitude valve in  
                  the elevated storage tank and failed to maintain the water level indicator probes  
                  in the 0.400 MG Ground Storage Tank.  
 Self Report?    NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 290, SubChapter D 290.46(m)(6)  
 Description:    The facility failed to maintain the system pumps, motors and valves in good  
                  working condition.  
 Self Report?    NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 290, SubChapter D 290.44(d)(6)  
 Description:    The facility failed to provide effective circulation of water within the distribution  
                  system. With only one interconnection between the former Hi-Texas portion of  
                  the distribution system and the rest of the Fritch MWS, effective circulation and  
                  pressure maintenance within the distribution system has not been possible.  
 Self Report?    NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 290, SubChapter D 290.46(e)(4)(C)  
 Description:    The facility failed to employ at least two operators who hold a Class "C" or higher  
                  groundwater license. The Fritch MWS currently employs one "D" license. Both  
                  Mr. Zink and Mr. Bengé have expired "D" licenses and pending "C" licenses.  
 Self Report?    NO      Classification:      Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(II)  
Description: The facility failed to maintain a record of the amount of water treated each day.

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

## **Component Appendices**

### **Appendix A**

#### **All NOVs Issued During Component Period 10/22/2009 and 10/22/2014**

- 1      Date:    05/25/2010    (802868)      CN600630453  
Classification:    Moderate  
Self Report?    NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter D 290.46(l)  
Description:      Failure by the facility to flush dead ends on monthly basis.  
Classification:    Moderate  
Self Report?    NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter D 290.46(j)  
Description:      Failure by the facility to have available, an individual with credentials allowing them to conduct customer service inspections.
- 2      Date:    01/14/2011    (1197970)      CN600630453  
Classification:    Moderate  
Self Report?    NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)  
                    30 TAC Chapter 290, SubChapter F 290.109(e)  
Description:      GWR Triggered Source MR Violation 09/2010 - Failure to collect and/or report all triggered source monitoring samples following a coliform found result for 4 sources within the required timeline.
- 3      Date:    08/01/2013    (1197970)      CN600630453  
Classification:    Moderate  
Self Report?    NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)  
                    30 TAC Chapter 290, SubChapter F 290.109(e)  
Description:      GWR Triggered Source MR Violation 05/2013 - Failure to collect and/or report all triggered source monitoring samples following a coliform found result for 9 sources within the required timeline.
- 4      Date:    08/02/2013    (1094557)      CN600630453  
Classification:    Moderate  
Self Report?    NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)  
Description:      The facility failed to provide a flow measuring device on wells # 1, 3, 4, 5, & 6 in the Hi-Texas portion of the system.  
Classification:    Moderate  
Self Report?    NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
Description:      The facility failed to maintain the system storage tanks in accordance with current AWWA standards.  
The system failed to maintain the Elevated Storage Tank water level float system.  
The system failed to maintain the 0.400 MG Ground Storage Tank ventilation structure.  
The system failed to maintain the air lines and air compressor on the 0.018 MG pressure tank.  
The system failed to maintain the access ladder, roof hatch, and water level indicator on the 0.045 MG Ground Storage Tank  
The sy  
Classification:    Moderate  
Self Report?    NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter D 290.46(t)  
Description:      The facility failed to post a legible sign at Well #6 that provides the name of the water supply and an emergency telephone number where a responsible official can be contacted.  
Classification:    Moderate  
Self Report?    NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter D 290.46(n)(2)  
Description:      The facility failed to provide an accurate and up to date map of the distribution system combining both the Fritch MWS and former Hi-Texas portions of the

distribution system.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
Description: The facility failed to provide a secure enclosure or intruder-resistant fence for well #6.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(i)  
Description: The facility failed to ensure that a cross-connection and backflow prevention program was conducted.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)  
Description: The facility failed to maintain the 0.045 MG Ground Storage Tank tight against leakage. Several small leaks and other indications of corrosion were observed on

the exterior of the tank.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(C)  
Description: The facility failed to ensure that all instruments and controls on the system storage tanks work properly. The facility failed to maintain the altitude valve in the elevated storage tank and failed to maintain the water level indicator probes in the 0.400 MG Ground Storage Tank.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)  
Description: The facility failed to conduct an inspection on each of the system's ground and pressure storage tanks annually.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(6)  
Description: The facility failed to maintain the system pumps, motors and valves in good working condition.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(6)  
Description: The facility failed to provide effective circulation of water within the distribution system. With only one interconnection between the former Hi-Texas portion of the distribution system and the rest of the Fritch MWS, effective circulation and pressure maintenance within the distribution system has not been possible.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)  
Description: The facility failed to provide a minimum pressure of 35 psi throughout the distribution system.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)  
Description: The facility failed to make readily available Self-Contained Breathing Apparatus' outside the chlorinator rooms and immediately available to the operators in the event of an emergency.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(C)  
Description: The facility failed to employ at least two operators who hold a Class "C" or higher groundwater license. The Fritch MWS currently employs one "D" license. Both Mr. Zink and Mr. Bengé have expired "D" licenses and pending "C" licenses.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)  
Description: The facility failed to secure with a lock, access hatches on the system Elevated and 0.400 MG Ground Storage Tank.

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(II)

Description: The facility failed to maintain a record of the amount of water treated each day.

5\* Date: 09/26/2013 (1197970) CN600630453

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)

30 TAC Chapter 290, SubChapter F 290.109(e)

Description: GWR Triggered Source MR Violation 07/2013 - Failure to collect and/or report all triggered source monitoring samples following a coliform found result for 9 sources within the required timeline.

6\* Date: 11/07/2013 (1197970) CN600630453

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

30 TAC Chapter 290, SubChapter F 290.122(f)

Description: MAY/2013 GWR Triggered Source Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct triggered source monitoring for the month of 05/2013.

7\* Date: 11/20/2013 (1197970) CN600630453

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

30 TAC Chapter 290, SubChapter F 290.122(f)

Description: JUL/2013 TCR MCL PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a maximum contaminant level violation during the month of 07/2013.

8\* Date: 01/09/2014 (1197970) CN600630453

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

30 TAC Chapter 290, SubChapter F 290.122(f)

Description: JUL/2013 GWR Triggered Source Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct triggered source monitoring for the month of 07/2013.

9\* Date: 02/12/2014 (1145366) CN600630453

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: The facility failed to provide an accurate and up to date map of the distribution system combining both the Fritch MWS and former Hi-Texas portions of the distribution system.

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(i)

Description: The facility failed to ensure that a cross-connection and backflow prevention program was conducted.

Classification: Moderate

Self Report? NO

### For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(C)

Description: The facility failed to ensure that all instruments and controls on the system storage tanks work properly. The facility failed to maintain the altitude valve in the elevated storage tank and failed to maintain the water level indicator probes

in the 0.400 MG Ground Storage Tank.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(6)  
Description: The facility failed to maintain the system pumps, motors and valves in good working condition.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(6)  
Description: The facility failed to provide effective circulation of water within the distribution system. With only one interconnection between the former Hi-Texas portion of the distribution system and the rest of the Fritch MWS, effective circulation and pressure maintenance within the distribution system has not been possible.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(C)  
Description: The facility failed to employ at least two operators who hold a Class "C" or higher groundwater license. The Fritch MWS currently employs one "D" license. Both Mr. Zink and Mr. Bengé have expired "D" licenses and pending "C" licenses.

Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(II)  
Description: The facility failed to maintain a record of the amount of water treated each day.

\* NOVs applicable for the Compliance History rating period 9/1/2009 to 8/31/2014

## Appendix B

### All Investigations Conducted During Component Period October 22, 2009 and October 22, 2014

Item 1	May 26, 2010**	(802868) For Informational Purposes Only
Item 2*	February 24, 2012**	(987346) For Informational Purposes Only
Item 3	February 12, 2014**	(1145366) For Informational Purposes Only
Item 4	August 12, 2014**	(1186689) For Informational Purposes Only
Item 5	October 07, 2014	(1197970) For Informational Purposes Only
Item 6	October 10, 2014	(1198160) For Informational Purposes Only

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2009 and 08/31/2014.





# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF FRITCH  
RN101199099**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2014-1227-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Fritch (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply located at the intersection of Pioneer Street and Hackberry Street in Fritch, Hutchinson County, Texas (the "Facility") that has approximately 2,474 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted on May 28, 2013 and a record review conducted on August 11, 2014, TCEQ staff documented that Service Pump No. 3 at Pump Station No. 1 has not been maintained in working condition, Service Pump No. 2 is maintained as a back up for Service Pump No. 1, but it is not able to operate at full capacity, Service Pump Nos. 2 and 3 are leaking even when not running and the valve that controls the flow of water into the 0.045 million gallon ("MG") ground storage tank is not functioning.
3. During an investigation conducted on May 28, 2013 and a record review conducted on August 11, 2014, TCEQ staff documented that effective circulation and pressure maintenance within the distribution system has not been possible due to having only one interconnection between the former Hi-Texas portion of the distribution system and the rest of the Fritch municipal water supply.
4. During an investigation conducted on May 28, 2013 and a record review conducted on August 11, 2014, TCEQ staff documented that the Respondent employs one water works operator with a Class "C" license.
5. During a record review conducted from September 29, 2014 through October 10, 2014, TCEQ staff documented that the Respondent collected three of the four required raw groundwater source *Escherichia coli* samples for the month of September 2010, 12 of the required 32 raw groundwater source *Escherichia coli* samples for the four positive results during the month of May 2013 and two of the required 16 raw groundwater source *Escherichia coli* samples for the eight positive results during the month of July 2013, and did not provide public notification or submit a copy of the notification to the Executive Director regarding the failure to collect raw groundwater source *Escherichia coli* samples for the months of May and July 2013.
6. During a record review conducted from September 29, 2014 through October 10, 2014, TCEQ staff documented that the Respondent did not provide public notification or submit a copy of the notification to the Executive Director regarding the failure to comply with the maximum contaminant level for total coliform during the month of July 2013.
7. During a record review conducted from September 29, 2014 through October 10, 2014, TCEQ staff documented that the Respondent did not mail consumer notification of lead tap water monitoring results to persons served at the locations that were sampled and did not submit to the TCEQ a copy of the consumer notification and certification that the consumer notification has been distributed to the persons served at the locations in a manner consistent with TCEQ requirements for the 2013 monitoring period.
8. The Respondent received notices of the violations on August 14, 2014 and October 15, 2014.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to maintain pumps, motors, valves and other mechanical devices in good working condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(6).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to design the system to afford effective circulation of water with a minimum of dead ends, in violation of 30 TEX. ADMIN. CODE § 290.44(d)(6).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to operate the Facility under the direct supervision of at least two water works operators who hold a Class "C" or higher license, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(4)(C) and TEX. HEALTH & SAFETY CODE § 341.033(a).
5. As evidenced by Findings of Fact No. 5, the Respondent failed to collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample and failed to provide public notification and submit a copy of the notification to the Executive Director regarding the failure to collect raw groundwater source *Escherichia coli* samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(4)B) and 290.122(c)(2)(A) and (f).
6. As evidenced by Findings of Fact No. 6, the Respondent failed to provide public notification and submit a copy of the notification to the Executive Director regarding the failure to comply with the maximum contaminant level for total coliform, in violation of 30 TEX. ADMIN. CODE § 290.122(b)(2)(A) and (f).
7. As evidenced by Findings of Fact No. 7, the Respondent failed to mail consumer notification of lead tap water monitoring results to persons served at the locations that were sampled and failed to submit to the TCEQ a copy of the consumer notification and certification that the consumer notification has been distributed to the persons served at the locations in a manner consistent with TCEQ requirements, in violation of 30 TEX. ADMIN. CODE § 290.117(i)(6) and (j).
8. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of Three Thousand Two Hundred Twenty Dollars (\$3,220) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The

Respondent has paid the Three Thousand Two Hundred Twenty Dollar (\$3,220) administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Three Thousand Two Hundred Twenty Dollars (\$3,220) as set forth in Section II, Paragraph 9 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Fritch, Docket No. 2014-1227-PWS-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Begin maintaining pumps, motors, valves and other mechanical devices in good working condition, including but not limited to maintaining Service Pump No. 3 at Pump Station No. 1, repairing Service Pump No. 2 so that it is able to operate at full capacity and serve as a back up for Service Pump No. 1, repairing the leaks from Service Pump Nos. 2 and 3 and repairing the valve that controls the flow of water into the 0.045 MG ground storage tank, in accordance with 30 TEX. ADMIN. CODE § 290.46;
    - ii. Commence operating the Facility under the direct supervision of two water works operators who hold a Class "C" or higher license, in accordance with 30 TEX. ADMIN. CODE § 290.46;
    - iii. Begin complying with applicable coliform monitoring requirements by collecting one raw groundwater source *Escherichia coli* sample from each groundwater source in use at the time the distribution coliform-positive sample was collected and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN.

CODE § 290.109. This provision will be satisfied upon six months of compliant monitoring and reporting;

- iv. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility with a copy to the Executive Director, including but not limited to providing public notification regarding the failure to collect raw groundwater source *Escherichia coli* samples and the failure to comply with the maximum contaminant level for total coliform, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
  - v. Mail one copy of the consumer notification of lead tap water monitoring results to persons served at the locations that were sampled for the most recent monitoring period in which lead samples were collected, in accordance with 30 TEX. ADMIN. CODE § 290.117.
- b. Within 45 days after the effective date of this Agreed Order:
- i. Submit written certification as described in Ordering Provision No. 2.e. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i., 2.a.ii., 2.a.iv. and 2.a.v.; and
  - ii. Submit to the Commission a copy of the consumer notification of lead tap water monitoring results provided to the persons served at the locations that were sampled and the certification that the consumer notification has been distributed to said persons in a manner consistent with TCEQ requirements, in accordance with 30 TEX. ADMIN. CODE § 290.117. The copy of the consumer notification and the certification shall be mailed to:  
  

Lead and Copper Coordinator  
Public Drinking Water Section  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
- c. Within 60 days after the effective date of this Agreed Order,
- i. Submit written certification as described in Ordering Provision No. 2.e. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.ii.; and
  - ii. Provide effective circulation and pressure maintenance within the distribution system, in accordance with 30 TEX. ADMIN. CODE § 290.44.

- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.ii.; and
- e. Within 225 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

and to:

Public Drinking Water Section Manager  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any

other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pamela Mancu  
For the Executive Director

4/7/15  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Fritch. I am authorized to agree to the attached Agreed Order on behalf of the City of Fritch, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Fritch waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

W. Kelly Henderson  
Signature

1-5-15  
Date

W. Kelly Henderson  
Name (Printed or typed)  
Authorized Representative of  
City of Fritch

Mayor  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.